

§ 4001.203

§ 4001.203 Calculation of upfront and annual mortgage insurance premiums for Program mortgages.

(a) *Applicable premiums.* Any mortgage presented for endorsement under section 257 on or after October 1, 2008, and prior to September 30, 2011, shall be subject to the following requirements:

(1) *Upfront premium.* FHA shall establish and collect a single premium payment equal to 3 percent of the amount of the original insured principal obligation of the Program mortgage.

(2) *Annual premium.* In addition to the premium under paragraph (a)(1) of this section, FHA shall establish and collect an annual premium payment in an amount equal to 1.5 percent of the amount of the remaining insured principal balance of the Program mortgage.

(b) *Proceeds for payment of the upfront premium.* The up-front premium shall be paid with proceeds from the Program mortgage through a reduction of the amount of indebtedness that existed on the eligible mortgage prior to its being refinanced.

Subpart D—Servicing Responsibilities

§ 4001.301 Cross-reference.

(a) All of the provisions of 24 CFR part 203, subpart C, covering mortgages insured under section 203 of the Act shall apply to mortgages insured under section 257 of the Act, *except as follows*: 203.664 Processing defaulted mortgages on property located on Indian land; 203.665 Processing defaulted mortgages on property located on Hawaiian home lands; 203.666 Processing defaulted mortgages on property in Allegany Reservation of Seneca Nation of Indians; and 203-670-203.681 Occupied Conveyance.

(b) For the purposes of this subpart, all references in 24 CFR part 203, subpart C, to section 203 of the Act shall be construed to refer to section 257 of the Act. Any references in 24 CFR part 203, subpart C, to the “Mutual Mortgage Insurance Fund” shall be deemed to be to the Home Ownership Preservation Entity Fund, and any references to “the Commissioner” shall be

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deemed to be to the Board or the Commissioner (as the context may require).

(c) If there is any conflict in the application of any requirement of 24 CFR part 203, subpart C, to this part 4001, the provisions of part 4001 shall control.

§ 4001.303 Prohibition on subordinate liens during first five years.

(a) *Prohibition on subordinate liens during first five years.* Except as provided in paragraph (b) of this section, a mortgagor shall not, during the first 5 years of the term of the mortgagor’s Program mortgage, incur any debt, take any action, or fail to take any action that would have the direct result of causing a lien to be placed on the property securing the Program mortgage if such lien would be subordinate to the Program mortgage.

(b) *Property preservation exception.* Paragraph (a) of this section shall not prevent a mortgagor on the Program mortgage from incurring new mortgage debt secured by a lien on the property securing the Program mortgage that is subordinate to the Program mortgage if:

(1) The proceeds of the new mortgage debt are necessary to ensure the maintenance of property standards, including health and safety standards;

(2) Repair or remediation of the condition would preserve or increase the property’s value;

(3) The cost of the proposed repair or remediation is reasonable for the geographic market area;

(4) The results of the repair or remediation are not primarily cosmetic;

(5) The repair or remediation does not represent routine maintenance;

(6) The new mortgage debt is closed-end credit, as defined in § 226.2 of the Federal Reserve Board’s Regulation Z (12 CFR 226.2); and

(7) The sum of the unpaid principal balance and accrued and unpaid interest on the Program mortgage and the original principal balance of the new mortgage debt:

(i) Does not exceed 95 percent of the estimated appraised value of the property securing the Program mortgage after completion of the proposed repair or remediation; and

(ii) Is less than: